



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LEBANON EDUCATION ASSOCIATION, :  
NEA-NEW HAMPSHIRE :

Petitioner :

v. :

LEBANON SCHOOL BOARD :

Respondent :

CASE NO. T-0240:4

DECISION NO. 83-05

#### APPEARANCES

##### Representing the Lebanon Education Association

John Fessenden, UniServ Director, NEA-N.H.

##### Representing the Lebanon School Board

David H. Bradley, Esq.

##### Also in Attendance:

Daniel J. Whitaker

Lucy W. McVitty

Margaret Jestude

#### BACKGROUND

The Lebanon Education Association (Association) is the recognized bargaining agent for the Lebanon Teachers and their contract with the Lebanon School Board (Board) runs from July 1, 1980 to June 30, 1983. The contract provides for reopener of "Appendix A - Salary and Fringe Benefits." The parties were negotiating in late 1981 but were unable to agree and a mediator was appointed. In January of 1982 the parties met with the mediator but were unable to reach agreement. A fact-finder was appointed subsequently, a hearing was held on January 21, 1982 and a report issued January 28, 1982. The Board rejected the fact-finder's report and the Association accepted it. The fact-finder's report was presented to the School District meeting on March 3, 1982 in compliance with RSA 273-A:12 III and RSA 273-A:3. The fact-finder's report was incorporated into an article for the School District meeting, amendments were offered and defeated and the fact-finder's report was accepted by vote of the meeting. Subsequent negotiations took place over implementation.

The Association charges that the Board violated RSA 273-A:5 (a), (e), (g), (h) in that on February 10, 1982 the Board did inform the public in their minutes that they (Board) had agreed to a 6% increase for teachers and adopted a salary schedule accordingly without negotiating with the Association and all of this prior to the School District meeting at which the fact-finder's report was scheduled to be voted upon.

A hearing was held on this matter in the PELRB office in Concord on May 27, 1982.

FINDINGS OF FACT AND RULINGS OF LAW

At hearing no evidence was presented to support the contention of the LLA that the School Board had adopted a salary schedule prior to the March 3, School District meeting. The minutes of the Board for February 10th show the Board's position vis-a-vis the fact-finder's report and make that position clear, and in subsequent publication do make that clear to the general public who will subsequently vote on the fact-finder's report.

RSA 273-A:12, III states, in pertinent part, that the "neutral parties".... "findings and recommendations shall be submitted to the legislative body of the public employer, which shall vote to accept or reject so much of his recommendations as otherwise permitted by law." A reasonable interpretation of this language would seem to grant the district meeting a certain latitude in acting on part or all of the report (... "so much of"...) rather than forcing them to vote to accept or reject in toto.

In addition, RSA 273-A:3, II (b) in limiting that which must be submitted to the legislative body of the public employer only to "cost items", also says ... "if the legislative body rejects any part of the submission, or while accepting the submission takes any action which would result in modification of the terms of the cost item"... recognizing that the district meeting has the power to modify cost items from wherever they come.

In summary then, the School District meeting must take action to accept or reject the fact-finder's report, in whole or in part, but may not alter the report itself, and may take other actions effecting the need to reopen negotiations.

It is the right and duty of the School Board to make recommendations to the district meeting but this does not constitute "negotiating" the salary figure with the general public. If the report is not accepted, or not accepted in toto, the parties will return to negotiating their agreement since "the impasse is not resolved" (273-A:12, IV). The actions of all parties at the School District meeting appear to be a proper exercise of their freedom to discuss the issues before voting on them and do not constitute a violation of RSA 273-A nor would the PELRB presume to instruct the legislative body on how to conduct its proceedings, absent a clear violation of RSA 273-A.

DECISION

The Public Employee Labor Relations Board:

1. Declines to find an unfair labor practice against the Lebanon School Board;
2. Makes no additional awards or remedies.

  
ROBERT E. CRAIG, Chairman

Signed this 15th day of March 1983

By unanimous vote. Chairman Craig presiding, members Seymour Osman, David Mayhew, James Anderson and alternate member Russell Verney present and voting. Also present, Executive Director Evelyn C. LeBrun.